



Martin O'Malley
Governor
Anthony G. Brown
Lt. Governor

Richard Eberhart Hall
Secretary
Matthew J. Power
Deputy Secretary

ANNOTATED CODE OF MARYLAND
Land Use Article 66B

§ 1.02.

- (a) Except as provided in this section, this article does not apply to charter counties.
- (b) The following sections of this article apply to a charter county:
 - (1) § 1.00(j) (Definition of "sensitive areas");
 - (2) § 1.01 (Visions);
 - (3) § 1.03 (Charter county - Comprehensive plans);
 - (4) § 4.01(b)(2) (Regulation of bicycle parking);
 - (5) § 5.03(d) (Easements for burial sites);
 - (6) § 7.02 (Civil penalty for zoning violation);
 - (7) § 10.01 (Adequate Public Facilities Ordinances);
 - (8) § 11.01 (Transfer of Development Rights);
 - (9) § 12.01 (Inclusionary Zoning);
 - (10) Except in Montgomery County or Prince George's County, § 13.01 (Development Rights and Responsibilities Agreements); and
 - (11) For Baltimore County only, § 14.02.
- (c) This section supersedes any inconsistent provision of Article 28 of the Code.

§ 5.03.

- (d)
 - (1) Regulations governing the subdivision of land shall require that an appropriate easement be provided for any burial site located on the land.
 - (2) The easement shall be subject to the subdivision plat for entry to and exit from the burial site by persons related by blood or marriage or persons in interest, as defined in § 14-121 of the Real Property Article.
 - (3) The existing right-of-way need not be extended for any improvements on the burial site.

§ 8.01.

- (a) (1) In this subheading the following words have the meanings indicated.
- (2) "Appurtenances" and "environmental settings" include:
- (i) Paved or unpaved walkways and driveways;
 - (ii) Trees;
 - (iii) Landscaping;
 - (iv) Pastures;
 - (v) Croplands;
 - (vi) Waterways; and
 - (vii) Rocks.
- (3) "Demolition" includes any willful neglect in the maintenance and repair of a structure, other than the structure's appurtenances and environmental settings, that:
- (i) Does not result from a financial inability to maintain and repair the structure; and
 - (ii) Threatens to result in a substantial deterioration of the exterior features of the structure.
- (4) "District" means a significant concentration, linkage, or continuity of sites, structures, or objects united historically or aesthetically by plan or physical development.
- (5) "Routine maintenance" means work that does not alter the exterior fabric or features of a site or structure and has no material effect on the historical, archaeological, or architectural significance of the site or structure.
- (6) "Site" means the location of an event of historic significance or a standing or ruined structure that possesses historic, archaeological, or cultural significance.
- (7) (i) "Structure" means a combination of material to form a construction that is stable.
- (ii) "Structure" includes buildings, stadiums, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks and towers, trestles, bridges, piers, paving, bulkheads, wharves, sheds, coal bins, shelters, fences, and display signs visible or intended to be visible from a public way.
- (iii) "Structure" also includes a natural land formation and an appurtenance and environmental setting.
- (iv) "Structure" includes a part of a structure.

- (b) (1) It is a public purpose in this State to preserve sites, structures, and districts of historical, archeological, or architectural significance and their appurtenances and environmental settings.
- (2) Except for the Mayor and City Council of Baltimore, the local legislative body of every local jurisdiction may, by ordinance or resolution, regulate:
 - (i) The construction, alteration, reconstruction, moving, and demolition of sites or structures of historical, archeological, or architectural significance;
 - (ii) The construction, alteration, reconstruction, moving, and demolition of sites and structures within districts; and
 - (iii) The appurtenances and environmental settings of sites and structures within their limits.
- (c) The purpose of an ordinance or resolution adopted under this subtitle is to:
 - (1) Safeguard the heritage of the local jurisdiction by preserving sites, structures, or districts which reflect elements of cultural, social, economic, political, archeological, or architectural history;
 - (2) Stabilize and improve the property values of those sites, structures, or districts;
 - (3) Foster civic beauty;
 - (4) Strengthen the local economy; and
 - (5) Promote the preservation and appreciation of those sites, structures, and districts for the education and welfare of the residents of each local jurisdiction.

§ 8.02.

For the purposes of this subtitle, each local jurisdiction may designate boundaries for sites, structures, or districts which are deemed to be of historic, archeological, or architectural significance, by following the procedures of the local jurisdiction for establishing or changing areas and classifications of zoning.

§ 8.03.

- (a) (1) A local jurisdiction may create a "historic district commission" or "historic preservation commission".
- (2) (i) A historic district commission or historic preservation commission shall have at least five members.
- (ii) Each member of a historic district commission or historic preservation

commission shall possess a demonstrated special interest, specific knowledge, or professional or academic training in such fields as history, architecture, architectural history, planning, archeology, anthropology, curation, conservation, landscape architecture, historic preservation, urban design, or related disciplines.

(iii) A majority of the members of a historic district commission or historic preservation commission shall be residents of the local jurisdiction that created the commission.

(iv) Each local jurisdiction that creates a historic district commission or historic preservation commission under this subtitle shall establish and publicly adopt criteria for qualifying as a member of the commission.

(3) (i) Each member of a historic district commission or historic preservation commission shall be appointed for a 3-year term.

(ii) The terms of the members of the commission shall be staggered.

(iii) A member of a historic district commission or historic preservation commission is eligible for reappointment.

(iv) The appointing authority shall fill any vacancy on a commission for the unexpired term of the vacant position.

(4) Subject to any requirements of the local jurisdiction governing the acceptance and use of gifts by public officials, a historic district commission or historic preservation commission shall have the right to accept and use gifts as needed to perform its duties.

(b) (1) The Maryland Historical Trust may be designated by a historic district commission or historic preservation commission to analyze and make recommendations concerning the preservation of sites, structures, or districts of historic, archeological, architectural, or cultural significance within the area served by the commission.

(2) The recommendations of the Maryland Historical Trust may include:

(i) Proposed boundaries for sites, structures, or districts; and

(ii) The identification and designation of particular sites, structures, or districts to be preserved.

§ 8.04.

(a) Subject to any requirements of a local jurisdiction governing the acquisition of easements, a historic district commission or historic preservation commission may acquire easements in connection with individual sites or structures, or with sites or structures located in

or adjacent to a locally designated historic district.

(b) The easements acquired by a historic district commission or historic preservation commission may grant to the commission, the residents of the historic district, and the general public the right to ensure that any site, structure, or surrounding property on which the easement is applied is protected, in perpetuity, from changes that would affect the historic, archeological, or architectural significance of the site, structure, or surrounding property.

§ 8.05.

(a) Before a person may construct, alter, reconstruct, move, or demolish a site or structure located within a designated district of a local jurisdiction, if any exterior changes are involved which would affect the historic, archeological, or architectural significance of the site or structure, any portion of which is visible or intended to be visible from a public way, the person shall file an application with the historic district commission or historic preservation commission.

(b) An application filed under subsection (a) of this section shall be considered by the historic district commission or historic preservation commission and approved or rejected by the commission.

(c) An applicant may not resubmit an application that is identical to a rejected application for 1 year after the rejection.

(d) The local jurisdiction may not grant a permit for a change to a site or structure or to a site or structure located in a district until the historic district commission or historic preservation commission has acted on the application as provided under § 8.06 of this subtitle.

§ 8.06.

(a) (1) A local jurisdiction shall adopt guidelines for rehabilitation and new construction design for designated sites, structures, and districts that are consistent with those generally recognized by the Maryland Historical Trust.

(2) (i) The guidelines adopted under this section may include:

1. Design characteristics intended to meet the needs of particular types of sites, structures, and districts; and
2. Identification of categories of changes that are so minimal in nature that they do not affect historic, archeological, or architectural significance and require no review by a historic district commission or historic preservation commission.

(ii) A historic district commission or historic preservation commission shall use

the guidelines in the commission's review of applications.

(b) In reviewing applications, a commission shall consider:

- (1) The historic, archeological, or architectural significance of the site or structure and its relationship to the historic, archeological, or architectural significance of the surrounding area;
- (2) The relationship of the exterior architectural features of the structure to the remainder of the structure and to the surrounding area;
- (3) The general compatibility of exterior design, scale, proportion, arrangement, texture, and materials proposed to be used; and
- (4) Any other factors, including aesthetics, which the historic district commission or historic preservation commission considers pertinent.

§ 8.07.

- (a) A historic district commission or historic preservation commission shall consider only the exterior features of a structure and may not consider any interior arrangements.
- (b) A historic district commission or historic preservation commission may not disapprove an application except as based on the considerations listed in § 8.06 of this subtitle.

§ 8.08.

- (a) A historic district commission or historic preservation commission shall strictly judge plans for sites or structures determined by research to be of historic, archeological, or architectural significance.
- (b) Unless the plans would seriously impair the historic, archeological, or architectural significance of the surrounding site or structure, a historic district commission or historic preservation commission may not strictly judge plans:
 - (1) For a site or structure of little historic, archeological, or architectural significance; or
 - (2) Involving new construction.
- (c) A historic district commission or historic preservation commission is not required to limit construction, reconstruction, or alteration to the architectural style of any one period.

§ 8.09.

- (a) (1) If an application is submitted for construction, reconstruction, or alteration affecting a site or the exterior of a structure or for the moving or demolition of a structure, and a historic district commission or historic preservation commission considers preservation of the site or structure to be of unusual importance to the local jurisdiction, the State, or the

nation, the commission shall attempt, with the owner of the structure, to formulate an economically feasible plan to preserve the site or structure.

(2) Unless the historic district commission or historic preservation commission is satisfied that the proposed construction, reconstruction, or alteration will not materially impair the historic, archeological, or architectural significance of the site or structure, the commission shall:

(i) Reject the application; and

(ii) File a copy of its rejection with the building inspector of the local jurisdiction.

(b) The historic district commission or historic preservation commission shall have 90 days from the date that it concludes that an economically feasible plan cannot be formulated under this section to negotiate with the owner and other parties to find a means of preserving the site or structure.

§ 8.10.

If a site or structure is considered to be valuable for its historic, archeological, or architectural significance, a historic district commission or historic preservation commission may approve proposed construction, reconstruction, alteration, moving, or demolition, despite the fact that the changes come within the provisions of § 8.09 of this subtitle, if:

(1) The site or structure is a deterrent to a major improvement program which will be of substantial benefit to the local jurisdiction; or

(2) The retention of the site or structure would:

(i) Cause undue financial hardship to the owner; or

(ii) Not be in the best interests of a majority of persons in the community

§ 8.11.

(a) A historic district commission or historic preservation commission shall adopt those rules and regulations necessary for the proper transaction of the commission's business.

(b) Any interested person or representative of an interested person may appear and be heard at any public hearing conducted by a historic district commission or historic preservation commission.

§ 8.12.

(a) A historic district commission or historic preservation commission shall:

(1) File with the building inspector of the local jurisdiction a certificate of the

- commission's approval, modification, or rejection of any application or plan submitted to the commission for review; or
- (2) If there is no building inspector in the county or municipal corporation, issue to the owner, lessee, or tenant of the property and premises that is the subject of the application or plan a certificate of the commission's approval, modification, or rejection.
- (b) An applicant may not begin work on any project submitted for review by a historic district commission or historic preservation commission, until the commission has filed the certificate of approval with the building inspector.
- (c) The building inspector may not issue a building permit for a change or construction submitted for review by a historic district commission or historic preservation commission until the building inspector has received the certificate of approval.
- (d) If there is no building inspector in the local jurisdiction, the owner, lessee, or tenant of the property and premises may not commence the proposed work or change until the historic district commission or historic preservation commission has issued to the owner, lessee, or tenant a certificate of approval.
- (e) If a historic district commission or historic preservation commission fails to act on a completed application within 45 days after the date that the completed application was filed, the application shall be considered approved unless:
- (1) The applicant and the commission agree to an extension of the 45-day period; or
- (2) The application is withdrawn.

§ 8.13.

This subtitle may not be interpreted to prevent routine maintenance, customary farming operations, or landscaping which does not have a material effect on the historic, archeological, or architectural significance of a designated site, structure, or district. Nothing in this subtitle affects the right to complete any work covered by a permit or authorization issued prior to October 1, 1995.

§ 8.14.

A historic district commission or historic preservation commission may request that the enforcing authority institute any of the remedies and penalties provided by law for any violation of an ordinance or resolution adopted under this subtitle.

§ 8.15.

Any person aggrieved by a decision of a historic district commission or historic preservation

commission may appeal the decision in the manner provided for an appeal from the decision of the zoning board or commission of the local jurisdiction.

§ 8.16.

- (a) (1) Every local jurisdiction in which a district is designated may enact laws requiring that:
 - (i) Utility companies relocate underground existing overhead lines and facilities within the defined part of the district or the entire district; and
 - (ii) If necessary, private owners receiving service from the relocated lines and facilities place any connection underground.
- (2) A law enacted under this section shall:
 - (i) Require that the estimated cost to property owners for work performed on private property be determined and made available to affected property owners;
 - (ii) Provide financing for these costs to private owners, including financing for any charges for the amortization of the bonds issued to initially cover private costs; and
 - (iii) Include any other provisions reasonably related to placing overhead lines and facilities underground and the administration of underground relocation projects.
- (b) (1) Notwithstanding any other provision of this section, the Public Service Commission shall:
 - (i) Prescribe the amount of the monthly surcharge required to support the net capital costs of an underground relocation and determine which customers of the applicable utility are subject to the surcharge;
 - (ii) Include the related net capital costs in the rate base; or
 - (iii) Adopt any other method to appropriately apportion the costs.
- (2) A utility may not be required to pay more than one-half of the net capital costs of underground relocation.
- (3) A local jurisdiction may appropriate money for underground relocation projects from any appropriate federal, State, and local funds it receives for the purpose.
- (c) (1) In implementing subsection (a)(2)(ii) of this section, the local jurisdiction may enter into an agreement with individual property owners under which the local jurisdiction agrees to advance funds to cover the property owner's costs for the relocation of the overhead lines and facilities.

- (2) (i) The local jurisdiction may appropriate funds, levy taxes, or borrow funds to pay and advance the costs of an underground relocation.
- (ii) The local jurisdiction also may:
 - 1. In order to recapture expended costs, impose a benefit assessment against property in the district on behalf of which the utility is relocated underground; and
 - 2. Provide for the collection of the assessment.
- (d) Section 1.02 of this article does not apply to this section.

§ 8.17.

- (a) The provisions of this subtitle are severable.
- (b) If any provision of this subtitle is held unconstitutional by a court of competent jurisdiction, the decision of the court does not affect or impair any of the remaining provisions.